

GINSBURG & MISK LLP

Attorneys At Law
215-48 Jamaica Avenue
Queens Village, New York 11428

(718) 468-0500
Fax (718) 468-0592

March 24, 2023

Via ECF

Hon. Philip M. Halpern
United States District Court, Southern District of NY
300 Quarropas Street
White Plains, New York 10601

Re: Zappier v. Project Veritas et al.
7:22-cv-06709 – PMH
Motion To Strike Memorandum

Dear Judge Halpern:

I write to Your Honor in response to Plaintiff's letter motion (Doc. 36) seeking to strike Mr. Spadone's Reply Memorandum of Law (Doc. 35). The letter motion should be denied, and the Court should consider Mr. Spadone's Reply Memorandum.

The Reply Memorandum specifically addresses arguments that Plaintiff raised in response to Defendants' Joint Motion. Plaintiff alleged in her original Memorandum in Opposition that Mr. Spadone was **only** being sued pursuant to the New York State Human Rights Law as an employer and someone who aided and abetted violations of that statute (emphasis added). As this Court has previously stated, "reply papers may properly address new material issues raised in the opposition papers so as to avoid giving unfair advantage to the answering party." Bravia Capital Partners, Inc. v. Fike, 296 F.R.D. 136, 144 (S.D.N.Y. 2013) (quoting Bayway Ref. Co. v. Oxygenated Mktg. & Trading A.G., 215 F.3d 219, 226–27 (2d Cir. 2000)). Given that the Reply Memorandum responds specifically to Plaintiff's own motion submission, it is appropriate for the Court to consider the Reply Memorandum. We respectfully ask the Court to deny Plaintiff's letter motion.

Respectfully submitted,

/s/ Christopher Ryan Clarke

Christopher Ryan Clarke

cc: All Counsel (via ECF)